

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF MASSACHUSETTS

ORIGINAL

SENSITECH INC.AND DONALD W.  
BERRIAN

Plaintiff,

v.

TIME & TEMPERATURE COMPANY,  
d/b/a TIME 'N TEMPERATURE  
CORPORATION

Defendant.

Civil Action No. 04-11483 (MLW)

**[PROPOSED] ORDER REGARDING DEFENDANT'S MOTION TO DISMISS OR IN  
THE ALTERNATIVE FOR A MORE DEFINITE STATEMENT**

WHEREAS, plaintiff Sensitech, Inc. ("Sensitech") filed its complaint against  
Time 'N Temperature Company ("TNT");

WHEREAS, Defendant brought a Motion pursuant to Rules of Civil Procedure 12  
(B)(6) and 12(e) on grounds as addressed in the parties' pleadings;

Whereas the Motion to dismiss or in the alternative for more definite statement  
was heard in the above-entitled Court. Appearances are as noted in the record, the  
pleadings having been considered and proof having been made to the satisfaction of the  
Court that the Motion should be granted, and good cause appearing therefore, the Court  
hereby orders as follows:

1. The claim for patent infringement shall be dismissed without prejudice; or
2. The complaint provides notice of the claim to TNT, but fails to adequately set forth the grounds for the claim sufficient to allow TNT to respond without risk of prejudice, therefore plaintiff Sensitech shall amend its complaint to identify which of TNT's products are alleged to infringe the patent at issue, i.e. U.S. Patent Re. 36,200, and shall further state the factual basis for its infringement allegations.

**IT IS SO ORDERED.**

Dated: June \_\_, 2005

By: \_\_\_\_\_  
United States District Court Judge